

# Duty Drawback Modernization Legislation - Are You Prepared for the Changes Ahead?

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## Responses from the Q&A Portion of the Broadcast

This information has been provided by the webinar presenter: Brenda Sweetman, Vice President of C.J. Holt & Co., Inc.

**1. Will the 8 digit/10 digit rule regarding the "Other" description be applicable to manufacturing as well as unused drawback?**

Based upon the approved Statute 1313(j)(5)(B), it appears that the 10-digit rule only applies to Unused Merchandise drawback. According to 1313(j)(5)(B), the article description classification must begin with the term "Other".

**2. Will drawback claims for FTZ withdraws work any differently under the new program?**

The new Statute does not indicate any changes but there may be changes once the regulations are written.

**3. How will USCBP know who is the authorized party to file the claim, as far as the importer and claimant is concern?**

Since the new regulations will eliminate the requirement for CDs, CM&Ds, and endorsements, we are waiting for CBP's guidance on how this will be determined. Also keep in mind that the new Statute says the importer and claimant are jointly liable, regardless of who files the claim.

**4. Can you elaborate on "liquidation"? When are goods considered liquidated?**

Liquidation is the term used to describe when CBP finalizes their actions on an entry (import or drawback). CBP issues notification when an entry is liquidated.

**5. I'm doing Drawback 1313J1 calculating using low to high, will the average now be used?**

This is a provision that is dealt with in the regulations rather than Statute, this will be determined when the new regulations are written.

**6. With the upcoming changes, via electronically, I assume an Importer/Exporter still has the option of filing themselves, or having their Customs Broker do so?**

Yes, this option is still available.

**7. You haven't mentioned if there are any changes with 1313P. Are there?**

According to the discussions that have taken place so far, 1313p will not be changed with regards to claiming procedures other than the removal of the requirements of the Certificates of Delivery and Certificates of Manufacture & Delivery.

**8. We employ a Direct Identification/Unused Merchandise Drawback program. Will we be able to take advantage of the 8 digit HTS match?**

This will only be applicable to Unused Substitution, not for Direct Identification drawback.

**9. Will there be a phased implementation of these new regulations?**

CBP has two years after the signing of the law to write the new regulations, and then there will be one year of transition during which the Trade can use the new claiming procedures before it is then required that all claims must be filed using the new regulations.

**10.Regarding substitution at the 8 digit level, how will it work if goods are exported using Schedule B?**

Discussions during the drafting of the new Statute included provisions to allow companies to continue using Schedule B on exports. Details of how to match to the imported HTS will need to be addressed in the regulations.

**11.Can you go into more detail about 1313(b) - how will those submissions be handled when they don't match at 8-digits due to the manufacturing process?**

The 8-digit is between what was imported and designated, and what is used to make the exported product. Therefore, Bills of Material are still essential to link the exported finished good back to the imported goods.

**12.When do the 3 years after liquidation recordkeeping requirement go into effect? Can we continue to destroy 3 years after accelerated payment for now?**

Even though the new law was signed by the President in February, the elements of it will not take effect until the regulations are written which can take up to two years. However, we advise that you start amending your recordkeeping practices as soon as possible in order to be prepared.

**13.When does the 5 year drawback period take effect?**

Even though the new law was signed by the President in February, the elements of it will not take effect until the regulations are written which can take up to two years.

**14.How will merchandise, for example a watch, that has multiple HTS (1 HTS per component), be affected by this new changes?**

The new Statute does not indicate any changes but there may be changes once the regulations are written.

**15.If I import via FedEx, FedEx is always the importer of record. How will this impact my claim (especially the record keeping) if they only keep their documents for a year, while we can keep it for as long as 12 years?**

The requirement will be that the claimant has records available up to three years after liquidation. If those records include documentation from an importer, it will be the claimant's responsibility to ensure that the records are available.

**16. Will there be any changes to the accelerated payment program?**

The new Statute does not indicate any changes but there may be changes once the regulations are written.

**17. Do you recommend not filing claim toward the end of the year to avoid review during the transition into ACE?**

We recommend accelerating claims as early in 2016 as possible to avoid potential delays due to the implementation of the new drawback CATAIR at the end of the year.

**18. Where do I have to submit the claim?**

There are four drawback processing centers in the United States: Newark, Chicago, Houston, and San Francisco. The exception to this is if you are filing a Notice of Intent to Export, which would be filed at the port of exportation.

**19. If you are claiming on unused identical, would it be OK to claim substitution eliminating the cumbersome record keeping?**

If you are not bound by restrictions of a trade agreement such as NAFTA, you can switch to substitution as long as you can comply with all of the requirements.

**20. How does CBP program for electronic filing in ACE if the regulations won't be complete for the next 2 years? Does that mean there will be changes in the ACE system in 2 years to accommodate the new regulations?**

Yes this will be updated to accommodate the new regulations when they are written.

**21. Will there be any changes for Direct ID claims? And will we be able to use exact duty payment for both Direct ID and Substitution? Can we continue to use the 10 digit or must it be 8?**

There are multiple questions here and we would like to address this after you have provided additional information. Please contact C.J. Holt directly.

**22. What is the coding sheet that is required when filing a drawback (non-electronically)?**

The coding sheet is the document that summarizes the data to be input on claims submitted manually, rather than through ABI. This includes information such as entry number, claimant ID, type of drawback, and import duties being claimed.

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